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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,627	08/13/2001	David C. Banks	112-0032US	9041
29855	7590	02/23/2006	EXAMINER	
WONG, CABELLO, LUTSCH, RUTHERFORD & BRUCCULERI, P.C. 20333 SH 249 SUITE 600 HOUSTON, TX 77070			NGO, NGUYEN HOANG	
			ART UNIT	PAPER NUMBER
			2663	

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/929,627

Applicant(s)

BANKS ET AL.

Examiner

Nguyen Ngo

Art Unit

2663

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

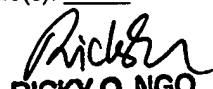
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☒ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because:

1. Applicant's arguments filed 1/30/2006 have been fully considered but they are not persuasive. The applicant submits that Ogawa does not teach or suggest that the first virtual channel be chosen based on the source of the Fibre Channel data (claim 5). It should be noted that Ogawa discloses a source routing method, which is designed such that a transfer path is designated by a transmission source for transfer of an IP packet, is used to designate the transfer path (correlating to a virtual channel) in response to the policy of the transmission source and is used to configure a specific service network on the existing network (virtual channel (path) to be chosen based on the source (transmission source) of the Fibre Channel data frame, col1 lines 45-50). Examiner thus posits that it is not unreasonable to correlate this to the limitation of claim 5. It may be further seen that the limitation of the first virtual channel is chosen based on the source of the Fibre Channel data frame may be interpreted as follows, Ogawa discloses that the transmission source node transmits packets while designating a node that the packets pass through, and that the transmission source receives packets from the user LAN and dissolves them into ATM cells and designates them to a specific node (first small switch), which in turn chooses a first virtual channel for general data flow. Thus the whole method of the routing of an IP packet, including chosen a virtual channel is all "based" on the transmission source, as the transmission source is the starting point of the cell stream. It should further be noted that the concept of source base routing is a well-known technique in the art.

2. The applicant further submits that Ogawa does not teach or suggest that the first small Fibre Channel switch use a first basis to identify the virtual channel and the second small Fibre Channel switch use a second, different basis to identify the virtual channel (claim 54). As stated in the office action and agreed upon by the applicant (see remarks), Ogawa discloses that node 1b uses cell 3a and node 1c uses cell 3b to identify the virtual channel. Node 1b detects the top cell 3a and uses the destination address to do VPI/VC1 transformation whereas Node 1c uses the new top cell 3b to determine the destination address (which is a different destination address) for VPI/VC1 transformation. Applicant submits that both nodes 1b and 1c uses the same basis, namely destination address in the top cell present. Examiner posits that it is not unreasonable to interpret the destination addresses (which is clearly shown to be different as cell 3a and 3b have different destination addresses for VPI/VC1 transformation) used to correlate to different basis. It is further noted that it is not clearly stated in the claims of the meaning of different basis, thus Examiner interprets different basis to mean the different destination addresses used in node 1b and 1c to determine the virtual channel..